CF0000061719

CrA 1069/97 (2) (2)

Division Bench (Criminal)

APPEAL PRISONER S.T. No. 52/96

No. 643 Name कालीदास @ कलदास

Father's Name गोविन्द Resident ग्राम - पल्लीआदा
थाना - आनपुरी, बस्तर

Age 30 Sentenced to आजीवन कारावास on 3/2/97
Fine. - 100/-

Under Section 302, 324 I.P.C. by द्वितीय अति० सत्र न्यायाधी० जगदलपुर

It is explained to the prisoner that if he states or wishes to be represented by a legal practitioner the Appellate Court will not proceed with the base for seven days unless the legal practitioner appears If the legal practitioner does not appear within seven days, he may be heard at all if legal practitioner the court may proceed at once with the case and will not be obliged to give a bearing to any legal practitioner who should appear.

1. Date of application for copy of Judgement :- No.
2. Date of which copy received :- 3. 2. 97
3. Date on which appeal sent :- 5. 2. 97
4. Whether the prisoner wished to be represented or not :- ~~Yes~~ / ~~No~~

No. 643 Name कालीदास @ कलदास पि० गोविन्द

Continued in जिला Jail प्रथम श्रेणी जगदलपुर

No. 547/अपील/97 Dated 5/2/97

Forwarded to the CHIEF JUDICIAL MAGISTRATE जगदलपुर

together with a copy of Judgement or order passed in the case for favour of transmission to the proper Applleate Court.

अधीक्षक
जिला कारागार बस्तर
जगदलपुर

Superintendent Central / Distt / Sub-Jail.

Date of rceeipt in C. J. M. Office.

Date of receipt of record to accompany.

Memo of Appeal of the Appellate Court.

No. 313 dated 19/2/97

Forwaided to the माननीय श्रीमान जिला एवं सत्र न्यायाधीश महोदय, जगदलपुर

(डी. के. पुजारी)
मुख्य न्यायिक दण्डाधिकारी
जगदलपुर

C. R. MAGISTRATE _____

Date of receipt in Applieate Court _____

XI-HC-22

15

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक Cr.A. No. 1069/97 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

DIVISION BENCH HON'BLE SHRI L.C.BHADOO, J
& HON'BLE SHRI DHIRENDRA MISHRA, J

Criminal Appeal No. 1069 of 1997

Appellant : Kalidas @ Kaldas

Vs.

Respondent : The State of Madhya Pradesh

Ms. Sangita Mishra, learned counsel for the appellant.
Shri Akhil Mishra, P.L. for the State/respondent.

ORAL JUDGMENT
(Delivered on 3rd February 2006)

L.C.Bhadoo, J

By this appeal under Section 374(2) of the Code of Criminal Procedure, accused/appellant Kalidas @ Kaldas has questioned the legality of judgment of conviction and order of sentence dated 3rd February 1997 passed by the Second Additional Sessions Judge, Jagdalpur in S.T. No. 52/96 whereby the learned Additional Sessions Judge after holding the accused/appellant guilty for commission of murder of his daughter Kamla convicted him under Section 302 and 324 of the Indian Penal Code and sentenced him to undergo imprisonment for life and to pay a fine of Rs. 100/-, in default of payment of fine to further under RI for two months and two years RI respectively.

[पीछे देखिये

(16)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक Cr.A.No. 1069/97 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
2.	Case of the prosecution, in brief, is that the accused/appellant was in the habit of consuming liquor and therefore he used to sell his agricultural land. The wife of the accused Parvati Bai objected to it. At this, on 09.12.95 in the night, the accused came to his house after consuming liquor and informed his wife that he is going to execute the sale deed of the land on which his wife asked him not to execute the sale deed. At this, the accused stated that she and his daughter always create problem and therefore he will finish the problem and started beating his wife and daughter. Thereafter he went to his bed. Later on, when the wife and daughter were sleeping accused/appellant started assaulting his daughter Kamla with the axe. Wife of the accused woke up and after taking his daughter in the lap, she left for the house of his sister in law Lachhani Bai and informed her about the act of the accused. The accused also followed her and assaulted her there with the axe. Next day morning report (Ex.P.-1) was lodged by the wife of accused Parvati Bai in police station Bhanpuri as Kamla Bai succumbed to the injuries. After registering FIR (Ex.P-1) the Station House Officer left for the scene of occurrence, after giving notice under Ex.P-2, he prepared panchnama (Ex.P-1) of the body of Kamla. The accused/appellant gave memorandum Ex.P-3 while in police custody and in pursuance of this he got recovered the axe under Ex.P-4. The Investigating Officer took into possession plain soil and blood stained soil as well as one mat from the place of occurrence under Ex.P.-5 and Ex.P-6. The blood stained clothes of the accused were taken into possession under Ex.P-7. The body of Kamla was sent for post mortem examination to the Primary Health Centre, Bhanpuri where Dr. K.S. Paikra conducted the post mortem and prepared the post mortem report (Ex.P-10). The injuries of Parvati Bai were examined by Dr. K.S. Paikra and he prepared	

[पीछे देखिये

(97)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक Cr.A. No. 1069/97 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -3-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

the injury report wherein he has opined that two incised wounds were found on the body of Parvati Bai. After completion of the Investigation charge sheet was filed in the Court of Judicial Magistrate First Class, Jagdalpur who in turn committed the case to the Sessions Judge Jagdalpur from where the learned Second Additional Sessions Judge received the case on transfer for trial.

3. The prosecution in order to establish the charge against the accused examined as many as twelve witnesses. The statement of the accused was also recorded under Section 313 of the Cr.P.C. in which he denied the prosecution evidence appearing against him and stated that he is innocent and has been falsely implicated in the crime. The accused also examined one defence witness namely Gulab.

4. Learned Additional Sessions Judge after hearing the arguments of the Additional Public Prosecutor and counsel for the accused/appellant convicted and sentenced the accused/appellant for the commission of the murder of his daughter as mentioned in paragraph 1 of this judgment.

5. We have heard Ms. Sangeeta Mishra, learned counsel for the accused/appellant and Shri Akhil Mishra, P.L. on behalf of the State.

6. Homicidal nature of death of Kamla is not in dispute. Even the two incised wounds received by Parvati Bai is also not in dispute.

7. As far as the involvement of the accused/appellant in committing the murder of his daughter Kamla and inflicting simple injuries by the axe to

[पीछे देखिये

(18)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

यामला क्रमांक Cri. No. 169/97 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	his wife Parvati Bai is concerned, P.W.-1 Parvati Bai, the injured witness has deposed that after taking meals she along with her daughter went to sleep and after hearing the screams of her daughter Kamla she woke up and saw that the accused was attacking Kamla with the axe. She took Kamla in the lap and went to the house of her uncle in law but the accused followed her and attacked her with the axe twice as a result of which she received injury on her back and hand.	
8.	The above evidence of Parvati Bai is corroborated by P.W.-2 Lachhani who saw Kamla in her uncle in law's house in the injured condition, the accused was following her, attacked Parvati Bai with axe in her presence. The axe in question was recovered at the instance of the accused under Ex.P-4 and memorandum Ex.P-3 was given by the accused, Dr. K.S.Paikra P.W.6 has also stated that he conducted the post mortem on the body of Kamla and found that there was incised wound on the back and her spinal cord was cut, there was incised wound on the neck and the spinal cord and membrane were found cut and the cause of death was shock and hemorrhage. The injury was sufficient in the original cause of nature to cause death. He has proved the injury report Ex.P-15 of Parvati Bai. The evidence of the witnesses P.W.-7 Rasbal, P.W.-8 Pancham Ram and P.W.9 Potu @ Jaidev has also corroborated the evidence of P.W.-1 Parvati Bai.	
9.	In view of the above evidence of the witnesses, the involvement of the accused/appellant in committing the murder of his daughter Kamla and inflicting injuries on Parvati is established and therefore, we do not find	

[पीछे देखिये

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक Cr.A. 1559/97 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -5-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	any illegality or infirmity in the judgment of the trial Court and the appeal has no force.	
10.	In the result, for the foregoing discussion, the appeal deserves to be dismissed being devoid of merits. It is accordingly dismissed.	
	Sd/- **L.C. BHADOO** **Judge**	**Sd/-** **Dhirendra Mishra** **Judge**